

## **REMARKS**

1. In response to the Office Action mailed July 2, 2009, Applicants respectfully request reconsideration. Claims 39-69 and 78-91 were last presented in the application. In the outstanding Office Action, claims 39-69 and 78-91 have been rejected. By the foregoing Amendments, claims 41-43, 45-46, 48, 50-52, 54, 57-65, 67-69, 80, 82, 84, 87, 89 and 91 have been amended, claims 39-40, 47, 49, 55-56, 66, 78-79, 81, 85-86 and 88 have been cancelled, and claims 92-100 have been added. Thus, upon entry of this paper, claims 41-46, 48, 50-54, 57-65, 67-69, 80, 82-84, 87 and 89-100 will be pending in this application. Of these forty-one (41) claims, four (4) claims (claims 92, 94, 97, and 99) are independent.

2. Based upon the above Amendment and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered and withdrawn.

### ***Interview Summary***

3. Applicants thank the Examiner for conducting a telephonic interview in this application with Applicants' representatives on October 21, 2009. During the interview, Applicants' representatives and the Examiner discussed U.S. Patent No. 6,648,914 to Berrang et al. (hereinafter, "Berrang") and possible amendments to the claims to help clarify the differences between the claimed invention and the cited reference. Regarding Berrang, the Examiner asserted that housing sections 2 and 3, and pliable bridge 6 of Berrang, collectively, are analogous to a receiver/stimulator package. Applicants thank the Examiner for this indication of the Examiner's position.

4. No agreement was reached in the interview regarding claim language that would be allowable over Berrang.

### ***Claim Objections***

5. The Examiner objected to claims 47, 81, and 88 for alleged informalities therein. Applicants have cancelled claims 47, 81, and 88. Thus, these objections have been rendered moot.

***Claim Rejections under §102***

6. The Examiner has rejected claims 39-41, 43-49, 55-57, 59-62, 64, 78-81 and 85-88 under 35 U.S.C. 102(e) as allegedly anticipated by Berrang. Applicants respectfully request reconsideration and withdrawal of these rejections for at least the following reasons.

***Claim 92***

7. Applicants' new independent claim 92 replaces previously presented independent claim 39. Applicants' new independent claim 92 recites, in part, "a housing configured to be implanted in a recipient and having therein a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis." (*See*, Applicants' new claim 92, above.) Applicants' claim 92 also recites, in part, "a first electrode assembly having contiguous first and second regions, wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis, wherein the lateral axis extends through the housing between a center of the receiver coil and a center of the receiver/stimulator package." (*See*, Applicants' claim 92, above.)

8. Berrang is directed to a totally implantable cochlear prosthesis. (*See*, Berrang, Abstract.) In an embodiment illustrated in FIG. 1 of Berrang, the prosthesis comprises an implanted part 1 that includes two housing sections 2 and 3, as well as a coil 4. (*See*, Berrang, col. 9, lns. 43-45; and FIG. 1.) Implanted part 1 also comprises "a pliable (or bendable) bridge 6" that connects housing sections 2 and 3. (*See*, Berrang, col. 9, ln. 57.) In addition, Berrang discloses that a "microphone casing 14 and electrode array 10 are connected to the housing sections 2 and 3 via junction 16 where cables 7 and 8 merge." (*See*, Berrang, col. 11, lns. 6-8.) Berrang also discloses that "FIGS. 15, 16, 17, and 18 illustrate alternate embodiments for some of the possible configurations for the implanted part of the invention, showing the coil 4 and the two housing sections 2 and 3." (*See*, Berrang, col. 16, lns. 5-8.)

9. FIG. 1 of Berrang shows junction 16 extending from bridge 6. In addition, as noted above, the Examiner asserted in the Interview that housing sections 2 and 3 and pliable bridge 6, collectively, are analogous to a receiver/stimulator package. Applicants submit that junction 16 appears to extend from bridge 6 along, or at least parallel to, the axis along which coil 4 is aligned with the "package" including elements 2, 3, and 6 of Berrang. As such, Applicants

submit that Berrang does not disclose that junction 16 extends from a housing along an axis that is substantially perpendicular to the axis along which coil 4 and the “package” (elements 2, 3, and 6) are aligned. Applicants therefore submit that FIG. 1 of Berrang fails to anticipate “a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis,” as recited in Applicants’ claim 92.

10. Applicants submit that FIGS. 15-18 also fail to anticipate Applicants’ claim 92. For example, Applicants submit that FIGS. 16 and 18 of Berrang appear to show junction 16 extending from coil 4 or a housing section 2 or 3 along, or at least parallel to, the axis along which coil 4 is aligned with the “package” that includes housing sections 2 and 3, and pliable bridge 6. Thus, Applicants submit that FIGS. 16 and 18 of Berrang fail to anticipate “a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis,” as recited in Applicants’ claim 92. Applicants submit that FIG. 17 of Berrang also fails to disclose this limitation of Applicants’ claim 92 because FIG. 17 appears to show junction 16 extending from a housing section 2 or 3 along, or at least parallel to, the axis along which coil 4 is aligned with each of housing sections 2 and 3 and bridge(s) 6.

11. With regard to FIG. 15 of Berrang, Applicants submit that FIG. 15 appears to show junction 16 extending along an axis that passes through the center of the “package” comprising housing sections 2 and 3 and pliable bridge 6. As such, Applicants respectfully submit that Berrang fails to anticipate “wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis, wherein the lateral axis extends through the housing between a center of the receiver coil and a center of the receiver/stimulator package,” as recited in Applicants’ claim 92.

12. For at least the reasons set forth above, Applicants respectfully submit that Applicants’ independent claim 92 is in condition for allowance.

***Claim 94***

13. Applicants' new independent claim 94 replaces previously presented independent claim 55. Applicants' new independent claim 94 recites, in part, "a housing configured to be implanted in a recipient and having therein a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . and a first electrode assembly having contiguous first and second regions, wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis, wherein the lateral axis extends through the housing between the receiver coil and the receiver/stimulator package." (*See*, Applicants' new claim 94, above.)

14. As such, for at least reasons similar to those discussed above with regard to independent claim 92, Applicants respectfully submit that Applicants' independent claim 94 is in condition for allowance.

***Claim 97***

15. Applicants' new independent claim 97 replaces previously presented independent claim 78. Applicants' new independent claim 97 recites, in part, "a housing configured to be implanted in a recipient and having therein a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . and a first electrode assembly having contiguous first and second regions, wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis and intersecting the longitudinal axis at a position substantially in the middle of the housing." (*See*, Applicants' new claim 97, above.)

16. Applicants submit that FIG. 1 of Berrang appears to show junction 16 extending from bridge 6 along, or at least parallel to, the axis along which coil 4 is aligned with a "package" including elements 2, 3, and 6 of Berrang. As such, Applicants submit that Berrang does not disclose that junction 16 extends from a housing along an axis that is substantially perpendicular to the axis along which coil 4 and the "package" are aligned. Applicants therefore submit that FIG. 1 of Berrang fails to anticipate "a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; and . . . wherein the first region extends from the

housing along a lateral axis substantially perpendicular to the longitudinal axis,” as recited in Applicants’ claim 97.

17. Applicants submit that FIGS. 16-18 of Berrang also fail to anticipate Applicants’ claim 97 at least for reasons similar to those discussed above with regard to Applicants’ claim 92.

18. Additionally, Applicants submit that FIG. 15 of Berrang appears to show coil 4 aligned with the “package” including housing sections 2 and 3, and bridge 6 along a first axis passing through the center of coil 4. However, Applicants submit that Berrang does not disclose junction 16 extending from a housing that comprises coil 4 and the “package” along a second axis intersecting the first axis “at a position substantially in the middle of the housing.” (*See*, Applicants’ claim 95, above.) Rather, Applicants submit that FIG. 15 of Berrang shows junction 16 extending along a central axis of the “package” including elements 2, 3, and 6. Thus, Applicants submit that FIG. 15 of Berrang fails to disclose “wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis and intersecting the longitudinal axis at a position substantially in the middle of the housing,” as recited in Applicants’ claim 97.

19. For at least the reasons set forth above, Applicants respectfully submit that Applicants’ independent claim 97 is in condition for allowance.

***Claim 99***

20. Applicants’ new independent claim 99 replaces previously presented independent claim 85. Applicants’ new independent claim 99 recites, in part, “a housing configured to be implanted in a recipient and having therein a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . and a first electrode assembly having contiguous first and second regions, wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis, and . . . wherein a first length of the housing along the longitudinal axis is greater than a second length of the housing along the lateral axis.” (*See*, Applicants’ new claim 99, above.)

21. Applicants submit that FIG. 1 of Berrang appears to show junction 16 extending from bridge 6 along, or at least parallel to, the axis along which coil 4 is aligned with a “package”

including elements 2, 3, and 6 of Berrang. As such, Applicants submit that Berrang does not disclose that junction 16 extends from a housing along an axis that is substantially perpendicular to the axis along which coil 4 and the “package” are aligned. Applicants therefore submit that FIG. 1 of Berrang fails to anticipate “a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; and . . . wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis,” as recited in Applicants’ claim 99.

22. Applicants submit that FIGS. 15-18 of Berrang also fail to anticipate Applicants’ claim 96. For example, Applicants submit that FIG. 15 of Berrang appears to show an implanted part having a smaller length along a first axis along which coil 4 and the “package” including elements 2, 3, and 6 are aligned than along a second axis perpendicular to the first axis and along which junction 16 extends from housing section 2 or 3. Thus, Applicants submit that FIG. 16 of Berrang fails to anticipate “a receiver coil and a receiver/stimulator package substantially aligned along a longitudinal axis; . . . wherein the first region extends from the housing along a lateral axis substantially perpendicular to the longitudinal axis, and . . . wherein a first length of the housing along the longitudinal axis is greater than a second length of the housing along the lateral axis,” as recited in Applicants’ claim 99.

23. Additionally, Applicants submit that FIGS. 16-18 of Berrang also fail to anticipate Applicants’ claim 99 at least for reasons similar to those discussed above with regard to Applicants’ claim 92.

24. For at least the reasons set forth above, Applicants respectfully submit that Applicants’ independent claim 99 is in condition for allowance.

***Dependent claims***

25. The dependent claims, including new dependent claims 94, incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicants respectfully assert that the dependent claims are also allowable over the art of record.

***Conclusion***

26. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.
27. Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Any cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and Applicants reserve the right to pursue such claims in a continuation or divisional application.

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Respectfully submitted,

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